In the High Court for the States of Punjab and Haryana at Chandigarh.

C.R.No.1904 of 2000 (O&M)
Decided on 07.9.2010.

Smt.Lachman Kaur and another --Petitioners

vs.

Gurmit Singh -- Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashwani Sharma,Advocate, for the petitioners

Mr.P.C.Dhiman,Advocate,for the respondent

Rakesh Kumar Jain, J, (Oral)

This revision petition is directed against the order dated 08.2.2010 by which evidence of the defendants/petitioners was closed by order of the Court.

The plaintiff filed a suit for possession by way of specific performance of agreement. It is submitted by learned counsel for the petitioners that the learned counsel for the plaintiff had made a statement before the trial Court that in case he did not lead any evidence on the next date of hearing, then his evidence should be deemed to be closed. He did not lead any evidence on the adjourned date but even then, he was given many opportunities by the trial Court to conclude his evidence, whereas the case of the defendants/petitioners is that their evidence has been closed on the ground that their counsel had given an undertaking on 4.1.2010

before the trial Court that he will lead his entire evidence on the next date of hearing. He further submits that respondent No.1 is 90 years old, whereas respondent No.2. is suffering from tuberculosis.

Although, it is no ground that if the plaintiff has been granted many opportunities by the trial Court even after violating the undertaking by the counsel, the same treatment should be given to the defendants, yet keeping in view the facts and circumstances of the case that respondent No.1. is 90 years of age and respondent No.2. is an ailing person coupled with the fact that the other party could be compensated in terms of costs, the present revision petition is allowed subject to payment of Rs.5000/- as costs. One more opportunity is granted to the petitioners/defendants to lead their entire evidence on a date which shall now be fixed by the trial Court. The case is now stated to be fixed for 9.9.2010, the trial Court is directed to fix a date for evidence of the defendants/petitioners. The defendants would lead their entire evidence on that date and in case they failed to do so, no further opportunity shall be granted to them for leading their evidence.

The revision petition is accordingly disposed off.

07.9.2010 **(Rakesh Kumar Jain)**
RR **Judge**